

The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, December 11, 2012 at Westfield City Hall. Members present included Dan Degnan, Randy Graham, Martin Raines, Ron Rothrock, and Bill Sanders. Also present were Kevin Todd, Senior Planner; Sarah Reed, Associate Planner; Andrew Murray, Associate Planner; and Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

Motion: To approve minutes of November 13, 2012 as presented.

Motion: Sanders; Second: Raines; Vote: Passed by Voice Vote

Murray reviewed the Public Hearing Rules and Procedures.

NEW BUSINESS

1212-VS-016 **Northeast corner of Wheeler Road and State Road 32, *The City of Westfield.***
The petitioner is requesting relief from the Westfield-Washington Township Zoning Ordinance US 31 Overlay Zone (WC 16.04.070).

Todd presented details of the petition, which is to exempt the US 31 Overlay Standards from applying to this project. He stated that the property was rezoned earlier this year in order to be a new location for businesses being displaced by the US 31 Major Moves project.

A Public Hearing opened at 7:11 p.m.

Ms. Julie Sole, Westfield Chamber of Commerce, read a statement in support of the variance to exempt the US 31 Overlay from the subject property.

Mr. Steve Henke, Henke Development Group, spoke in support of the variance.

The Public Hearing closed at 7:14 p.m.

Sanders moved to approve 1212-VS-016 as presented.

Raines seconded, and the motion passed 5-0

Graham moved to adopt the staff's finding of facts.

Sanders seconded, and the motion passed by voice vote.

1212-VS-14 **16909 Joliet Road, LeeAnn Chambers.**

The petitioner is requesting a Variance of Standard from the Westfield-Washington Township Zoning Ordinance to allow the minimum side yard setbacks for a stable to be 101 feet (north property line) and 182 feet (south property line) from 200 feet (WC 16.04.030.B.1).

Murray presented details of the variance, which is to allow the reduction in the setback requirement for a stable structure.

Mr. Robert Dale, Quality Builders, stated that this project is for hay and equipment storage. He added that flood plain location helped dictate the proposed location of the barn. He added that the horses will be kept to the back of the property and the back of the building where there is a lean-to.

Degnan asked where the horses were previously.

Ms. LeeAnn Chambers responded they were in the field, noting that they are pasture horses.

A Public Hearing opened at 7:38 p.m.

Ms. Jen Smith, property owner to the north, stated that although she does want the petitioner to have this barn, there are some changes and commitments she would like to see first. She stated that she would like to meet with staff and the petitioner regarding these changes. She expressed concern regarding the proximity of manure to her house. She added that she believes there is a nuisance regarding her property, which is the closest to the petitioner's proposed barn.

Dr. Ginny Kelleher, property owner to the south, is hoping that the petitioner can meet with her neighbor and work out some commitments.

Ms. Jean Tague expressed concern about making sure all the parameters are met for all those affected.

Ms. Kimberly Shields stated that she would like to see the barn go up, but expressed concern about the proximity of the barn and manure to the neighboring house. She also stated that it would cause a health concern.

The Public Hearing closed at 8:01 p.m.

Degnan asked if they could build in the location of the existing barn.

Murray responded yes, they could build in the existing location as long as the existing footprint was not exceeded.

Dale responded that if they chose to build at the current location, they would have to elevate the building three feet higher due to flood plain issues.

Degnan stated his belief that a continuance is the right thing to do so the petitioner can work with her neighbors.

Raines stated that there is no way to get the 200 foot setback no matter where they put the building without affecting one neighbor or another.

The Board asked the petitioner if they would entertain a continuance.

Chambers responded she would like a decision today.

Rothrock stated that one of the common concerns was regarding the manure and he asked the petitioner to address that subject.

Chambers responded that she is working to get a contract to take the manure away on a monthly basis.

Degnan moved to deny 1212-VS-14.

Sanders seconded, and the motion passed 4-1 (Raines)

Raines moved to accept Degnan's proposal as the findings of fact.

Sanders seconded, and the motion passed by voice vote. (4-1)

1212-VU-06 **South side of State Road 32, approximately 1,400 feet west of Carey Road, Interbody Inc.; Kevin Steel.** The petitioner is requesting a Variance of Use from the Westfield-Washington Township Zoning Ordinance to allow auto storage, auto salvage, and auto impound to be permitted in the General Business District (WC 16.04.050).

Todd introduced the variance of use, which is to allow auto storage, salvage, and impound uses on the subject property. He stated that the business is located on US 31 North was being displaced due to the US 31 Major Moves project. He further stated that auto sales is a permitted use in the GB District, but the other component of the business, impound lot, is not addressed in any zoning district in the Zoning Ordinance. He added that if this item is not approved, the next agenda item is not necessary.

Rothrock asked how high the fence is.

Mr. Tim Oaks, Ice Miller, representing the petitioner, responded that the fence is proposed to be six feet tall.

Sanders asked for confirmation that the fence is only on the south property line.

Oaks responded yes, the impound lot and impounded vehicles will be located between the fence and the building.

Rothrock asked where the salvage cars would be located.

Mr. Kevin Steel, petitioner, responded that they will be located inside the fence.

A Public Hearing opened at 8:31 p.m.

Mr. Tom Trentman expressed concern, stating that the General Business zoning came with the understanding that it would be offices, and asked if there could be stipulations in place so that when and if this business moves or is out of business, that this use is stopped for future uses.

The Public Hearing closed at 8:34 p.m.

Oaks responded to the public hearing comment stating that the intent is not to have a junk yard, and that if a vehicle comes on site that is a salvage vehicle, it will be completely repaired.

The Board discussed additional conditions.

Mr. Peter Jackson would like to recommend that this approval for the zoning only applies to this particular owner.

Graham moved to approve 1212-VU-06 with the following conditions:

1. That a wood shadow box fence or opaque wooden fence be installed around the perimeter of the outdoor auto storage, salvage, auto impound lot;
2. That the fence receives routine maintenance and remain in good repair;
3. That a plan showing the location of the fence and fence detail be submitted to the Economic and Community Development Department staff for administrative review and approval prior to the use of the outdoor auto storage salvage and auto impound lot;
4. That the salvaged and impound vehicles remain inside the fence only;
5. That salvaged and impound vehicles are allowed on property only for repair;.
6. And that any change to the site plan would be required to come back before the Board.

Degnan seconded, and the motion passed 4-1 (Rothrock)

Raines moved to adopt the Board conditions and staff's finding of facts.

Degnan seconded, and the motion passed by voice vote.

1212-VS-015 South side of State Road 32, approximately 1,400 feet west of Carey Road, Interbody Inc.; Kevin Steel. The petitioner is requesting relief from the Westfield-Washington Township Zoning Ordinance State Road 32 Overlay Zone (WC 16.04.065).

Todd introduced the second request, stating that the way the State Road 32 Overlay has been crafted, any Variance of Use would cause the State Road 32 Overlay to apply. He added that doing so would result in this property being brought up to that code. He further added that the proposal is to have the State Road 32 Overlay not apply at this time, but that it would apply the next time a development plan review for this property comes before the City for review and approval.

A Public Hearing opened at 8:58 p.m.

No one spoke, and the Public Hearing closed at 8:59 p.m.

Raines moved to approve 1212-VS-015 with the following conditions:

1. That any fencing or wall installed on the Property shall comply with the fencing requirements in the State Highway 32 Overlay Zone (WC 16.04.065,10,e). Any fencing or wall installed for the auto storage, auto salvage, auto impound lot shall not use decorative metal.
2. That all State Highway 32 Overlay Zone standards (WC 16.04.065) apply to future development plan reviews for the Property.

Sanders seconded, and the motion passed 5-0

Raines moved to adopt the staff's finding of facts.

Degnan seconded, and the motion passed by voice vote.

The meeting adjourned at 9:05 p.m.

Chairman
Randy Graham

Secretary
Matthew S. Skelton